

Complaints Policy

Operational Policy	Policy No:	GOV-40
	Adopted by Council:	<i>5 October 2021</i>
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	Version No:	001
Policy/Procedure Owner:	Manager Organisational Development	
Related Policies:	OD002 Fraud and Corruption Control Policy OD010 Public Interest Disclosure Policy OD007 Complaints Handling Procedure RM014 Privacy Policy Councillor Code of Conduct PC012 Employee Code of Conduct GOV-43 Windfarm Complaints Procedure PC001 Equal Opportunity, Harassment and Bullying Policy	
External References:	Local Government Act 2020 Charter of Human Rights and Responsibilities Act 2006 Freedom of Information Act 1982 Gender Equality Act 2020 Independent Broad-based Anti-corruption Commission Act 2011 Food Act 1984 Environment Protection Act 2017 Public Health and Wellbeing Act 2008 Privacy and Data Protection Act 2014 Public Interest Disclosures Act 2012 Victorian Ombudsman Complaint Handling Good Practice Guide	

1. PURPOSE

The purpose of this policy is to provide a systemic framework to assessing and responding to complaints made by members of the public and to increase the level of customer satisfaction by resolving issues in an effective, fair, respectful and professional manner.

To broaden the assessment of complaints, Moyne Shire Council under the Gender Equality Act will ask to collect complainant demographic information. This is to evaluate views of the public on our actions, decisions or services provided and better

understand the needs of the community. Further information can be found in the Complaints Registration form Privacy Collection Notice.

2. INTRODUCTION

Moyne Shire Council is committed to managing complaints in a transparent, fair and consistent way and feedback is encouraged. It helps improve Council services and how business is conducted.

The value of proper complaints handling

The expression of a complaint by a member of the community provides an opportunity for council to:

- improve its level of accountability to the community;
- obtain valuable feedback on its performance as an organisation;
- demonstrate its commitment to customer service by professionally addressing the specific needs of the complainant; and
- identify deficiencies in its current service delivery programmes.

3. SCOPE

For the purposes of this policy, section 107 of the Local Government Act 2020 provides that a complaint includes the communication whether orally or in writing to the Council by a person of their dissatisfaction with:

- (a) The quality of an action taken, decision made or service provided by a member of Council staff or a contractor engaged by the Council; or
- (b) The delay by a member of Council staff or a contractor engaged by the Council in taking an action, making a decision or providing a service; or
- (c) A policy or decision made by a Council or a member of Council staff or Contractor.

3.1. What is not a complaint and are exceptions to this Policy

A complaint must relate to matters of Moyne Shire Council:

- Council may refuse to deal with a complaint that is subject to statutory review;
- a legislation or Act may take precedence with response times and process for dealing with a complaint;
- a request for service; (e.g. missed bin);
- reports of a hazard (e.g. fallen tree or pothole);

- reports concerning neighbours or neighbouring properties (e.g. dog barking or noise issues);
- a request for information or an explanation of a policy or procedure;
- complaints made under the Public Interest Disclosure Act;
- decisions made under legislation which provides for separate avenues of appeal (e.g. prosecutions under Local Laws and decisions under the Building Act or Freedom of Information Act);
- an alleged breach under the Councillors Code of Conduct;
- a dispute between neighbours;
- claims for compensation and decisions which have their own appeals process;
- staff grievance;
- comments on social media which have not been directed to Council in accordance with this policy.

3.2. Policy Statement

How to make a complaint?

When a member of the community wishes to express dissatisfaction with a service, infringement or a Council employee they should clearly state that they “wish to complain” or “make a complaint”. Once recognised as a complaint, the matter will be treated by Council staff in accordance with this policy.

Preferably, members of the community wishing to make a complaint should do so in writing. This will assist Council in comprehensively responding to the complaint. To assist Council complainants should provide details of:

- relevant dates and times;
- a description of the incident or problem;
- any conversations and meetings you have had with involved parties;
- copies of relevant letters;
- an outline of the actions the complainant would like taken in response to the complaint;
- any further information thought important.

Council will also accept and respond to complaints lodged over the telephone or at its offices during normal working hours. Staff will assist in the completion of the complaints form. If specific communication needs or barriers are identified we can assist by:

- using an assistance service, such as interpreter or TTY;
- talking with you if you have trouble reading or writing;
- communicating with another person acting on your behalf if you cannot make the complaint yourself.

Complaint assessment

In the first instance, Council will assess your complaint for validity. Assessing your complaint is not an acceptance of the complaint. Moyne Shire Council will assess your complaint to identify the allegations in the complaint based on the information you provide. We will assess relevant information available to us that may be connected to your complaint.

Reasons why Council may not accept your complaint are:

- it is not in Moyne Shire Council jurisdiction (or it is an exception to this Policy) and we will not investigate your complaint;
- the complaint is subject to statutory review and/or referred to another agency;
- the complaint is frivolous, vexatious, malicious or persistent.

Moyne Shire Council will inform you of the outcome of the assessment.

What will Council do with a complaint?

In the first instance, a complaint will be recorded and the person taking the complaint, or responsible for responding to the letter, will attempt to resolve the matter with the complainant directly. If, however, resolution cannot be reached the complaint will be reviewed or investigated by a more senior officer. If these avenues do not result in the resolution of the complaint the matter may be referred to Council's CEO to assess whether proper process has been followed and the complainant has been treated fairly.

The resolution of a complaint may involve:

- the provision of additional information;
- the instituting of remedial action;
- the provision of an apology; or
- the commencement of dispute resolution procedures.

Whatever the outcome, Council will clearly indicate what it can do and what it cannot.

Members of the community are also advised that if having followed the process detailed above they are still not satisfied they may pursue an external review of their complaint.

No charges apply to having a complaint heard by Council.

Treatment of a complaint

Council values feedback from the community on its performance, including complaints. Council staff will assist where necessary to the lodging of a complaint. An immediate response may not be possible and Council staff may require further detail or clarification from the complainant and may need to consult other Council employees. Also, while Council will endeavour to treat all complaints confidentially, due to statutory and other requirements confidentiality cannot be guaranteed.

At all times, Council staff will treat complainants in a respectful and professional manner. Council expects that complainants extend the same courtesy to our employees.

Response to a complaint

Council will respond to all complaints lodged within 10 working days. If the matter is complex and a reply within that timeframe is not possible, Council will contact the complainant to tell the complainant what action is being undertaken.

Council may refuse to deal with a complaint which is otherwise subject to statutory review.

This discretion sits with the relevant Director and the complainant will be informed in writing of the decision and the Statutory Review process. Where a complaint is subject to statutory review, the complainant will be advised which agency to contact and under which legislation / act the complaint should be dealt with.

Moyne Shire Council will provide information of who to contact after assessing the complaint. The agency contact details will be provided and under which legislation the complainant is being directed to contact the agency or prescribed authority.

Some legislations will not allow Council to deal with a complaint if it is being dealt with via another external review process or if you have a right to a statutory review such as a right of appeal to VCAT (Victorian Civil Administrative Tribunal).

Whether in person, writing or verbally by phone; a complaint registration form will be completed. All supporting documentation to the complaint shall be recorded with the registration form according to Moyne Shire Council Records Management Procedures. Complaints are assigned for investigation and managers are accountable for the handling of complaints. Moyne Shire Council has a complaint handling procedure which defines responding to a complaint and enacting agreed solutions.

How to request an external review

There are external bodies that can deal with different types of complaints about us.

You can request an external review from the following organisations.

Complaint	Organisation to contact for external review
<p>Actions or decisions of a Council, Council staff and contractors.</p> <p>This includes failure to consider human rights or failure to act compatibly with a human right under the <i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i></p>	<p>Victorian Ombudsman www.ombudsman.vic.gov.au</p>
<p>Breaches of the Local Government Act</p>	<p>Local Government Inspectorate www.lgi.vic.gov.au</p>
<p>Breach of privacy.</p> <p>Complaint about a freedom of information application</p>	<p>Office of the Victorian Information Commission www.ovic.vic.gov.au</p>
<p>Corruption or public interest disclosure ('whistleblower') complaints</p>	<p>Independent Broad-based Anti-corruption Commission www.ibac.vic.gov.au</p>

Complaint	Organisation to contact for external review
Discrimination	Victorian Human Rights and Equal Opportunity Commission www.humanrights.vic.gov.au
Council elections	Victorian Electoral Commission www.vec.vic.gov.au

Anonymous Complaints

Where validating evidence is presented an anonymous complaint will be investigated and actioned. If no evidence is presented and the complainant is anonymous, the complaint will be investigated at the discretion of management.

Vexatious / frivolous / malicious / persistent complaints

All complaints received will be treated with the utmost seriousness. If a complaint is considered to be malicious, frivolous, persistent or vexatious – see definitions – the complaint will be referred to the appropriate Director or CEO. An assessment of the complaint will be undertaken and a determination will be made as to the nature of the complaint. If the complaint is found to be vexatious, malicious or persistent the complainant will be notified of the outcome and no further action will be taken on the complaint. If the complaint is not found to be vexatious it will be dealt with in accordance with this policy.

Seeking Legal Advice

In some instances, it may be appropriate for Council management to seek legal advice with respect to the implications of a complaint. A decision to seek legal advice will be taken by the relevant Director or CEO.

Where a particular employee or Elected Member of Council believes that a complaint may have compromised their professional reputation, they may seek their own legal advice in relation to what private action they may take.

Moyne Shire Council complaint handling procedure defines the internal review of complaints outcomes for the complainant if unhappy with the way in which their complaint was handled or with the outcome. They will have the right to request an internal review which is will be independent of; the person who took the action, the person who made the decision, the person who provided the service

4. DEFINITIONS

CEO – Chief Executive Officer.

EDRMS – Electronic Document and Records Management System.

Complaint – A complaint is any expression of dissatisfaction with Council's:

- policies and procedures;
- its employees or agents;
- fees and charges;
- an infringement notice (fine);
- quality and range of services offered; or
- the goods provided by Council.

Charter of Human Rights and responsibilities – purpose is to protect and promote human rights.

Gender Equality – Moyne Shire Council have undertaken a Gender Impact Assessment in accordance with our obligations under the Gender Equality Act. We seek data to assess whether our policies, programs or services benefit some people more than others because they have greater access. We call this applying a gender lens.

Your privacy - We keep your personal information secure. We use your information to respond to your complaint, and may also analyse the information you have provided for the purpose of improving services that relate to your complaint. Where we publish complaint data, personal information is removed.

Vexatious – When a complaint is lodged to deliberately harass, annoy, delay or cause detriment or trouble. A complaint can also be considered vexatious where the complaint is without foundations and cannot possibly succeed, or where the complaint lacks reasonable grounds for lodging the complaint.

Frivolous – a complaint that lacks substance or merit, or is obviously untenable.

Malicious – someone who is motivated by wrongful, vicious, or mischievous purposes.

Persistent – someone who is refusing to give up or let go and/or is obstinate and/or insistently repetitive or continuous.

5. TRAINING REQUIREMENTS

Process for referring complaints for internal review.
Complaints that are otherwise subject to statutory review.
Response to complaints.

6. PROCEDURE OBJECTIVES

Collection of valuable feedback about how we are performing.

Analyse our complaint data to identify trends and potential issues that deserve further attention and use this information to come up with solutions about how we can improve our services.

7. PROCEDURE

1. Tell us what happened, submit your complaint;
2. Moyne Shire Council will assess your complaint;
3. You will be advised of the outcome of the assessment;
4. Proceeding to investigate the complaint;
5. Referral to more senior officer (if required);
6. Internal review (if required) independent of the person who took the action, made the decision or provided the service;
7. Is the complaint vexatious / refer to director or CEO;
8. Investigate and respond or refuse and refer;
9. Outcome of complaint. Is the complainant satisfied;
10. Refer for external review (if required).

8. QUALITY RECORDS

Record	Retention/Disposal Responsibility	Location
Complaint Register	Governance	EDRMS

9. ATTACHMENT

Complaints Handling Procedure Flowchart

Version Number	Details of change
Gov-40 Version 1	
Gov-40 Version 2	

ATTACHMENT - Complaint Handling Procedure – Flowchart

